

IPW ✓



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/784,598	02/23/2004	Joseph P. Errico	F-271

36402
 SPINECORE, INC.
 447 SPRINGFIELD AVENUE
 SUITES W2-W3
 SUMMIT, NJ 07901

CONFIRMATION NO. 8307

FORMALITIES LETTER



OC000000013499671

Date Mailed: 08/10/2004

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

An application number and filing date have been accorded to this application. The application is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given TWO MONTHS from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

The required item(s) identified below must be timely submitted to avoid abandonment:

- A substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3), and 1.125, is required. The specification, claims, or abstract page(s) submitted is not acceptable and cannot be scanned or properly stored because:
 - Papers must be legibly written either by a typewriter or mechanical printer in permanent ink or its equivalent in portrait orientation on flexible, strong, smooth, non-shiny, durable, and white paper. Application papers must be presented in a form having sufficient clarity and contrast between the paper and the writing thereon to permit the direct reproduction of readily legible copies in any number by use of photographic, electrostatic, photo-offset, and microfilming processes and electronic reproduction by use of digital imaging and optical character recognition. Pages all are not in compliance with 37 CFR 1.52(a).
- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 are required. The drawings submitted are not acceptable because:
 - The drawings must be reasonably free from erasures and must be free from alterations, overwriting, interlineations, folds, and copy marks. See Figure(s) 1c, 1f, 1l, 1m, 1n, 2k, 3d, 4d, 4l, 4j, 4o, 4p, 5c, 5f, 5l, 5L, 5o, 5t, 5u, 5bb, 5cc, 5dd, 6d, 6e.

The following item(s) appear to have been omitted from the application:

- Page(s) 40 of the specification (description and claims).

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and

10/13/2004 WASFAW1 00000025 121095 10784598

01 FC:1051 130.00 DA

10/14/2004 WASFAW1 00000002 121095 10784598

01 FC:1460 130.00 DA

Adjustment date: 10/14/2004 WASFAW1
 10/13/2004 WASFAW1 00000025 121095 10784598
 01 FC:1051 130.00 CR

Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h)) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted items(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b)**. In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

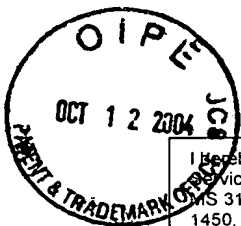
*A copy of this notice **MUST** be returned with the reply.*

Request wbldeyes

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS 313(c), Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: October 8, 2004

Signature: Michael J. Doherty

(Michael J. Doherty)

Docket No.: SPINE 3.0-437
CIPCIPCIPCIPCIPCIPCON III
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Errico et al.

Application No.: 10/784,598

Filed: February 23, 2004

Art Unit: 3738

For: INSTRUMENTATION FOR
REPOSITIONING AND EXTRACTING AN
ARTIFICIAL INTERVERTEBRAL
DISC FROM AN INTERVERTEBRAL
SPACE

Examiner: Not Yet
Assigned

RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Notice to File Corrected Application Papers mailed August 10, 2004 in the above-identified application. In response to the Notice, Applicants submit herewith a substitute specification in compliance with 37 C.F.R. § 1.52, 1.121(b)(3) and 1.125. Applicants also submit herewith replacement drawings in compliance with 37 C.F.R. § 1.84 and 1.121.

Applicants also enclose herewith a Petition under 37 C.F.R. § 1.182 requesting a later filing date. Applicants note that the present application is a continuation application of U.S. Patent Application Serial No. 10/282,356 filed October 29, 2002.

Application No.: 10/784,598

Docket No.: SPINE 3.0-437
CIPCIPCIPCIPCIPCON III

If there are any additional charges in connection with this requested Petition, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

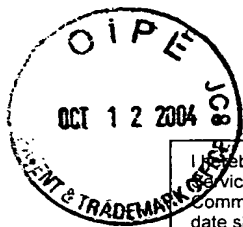
Dated: October 8, 2004

Respectfully submitted,

By 

Michael J. Doherty

Registration No.: 40,592
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant



I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: October 8, 2004

Signature:

Michael J. Doherty
(Michael J. Doherty)

Docket No.: SPINE 3.0-437
CIPCIPCIPCIPCIPCIPCON III
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Errico et al.

Application No.: 10/784,598

Filed: February 23, 2004

Art Unit: 3738

For INSTRUMENTATION FOR REPOSITIONING
AND EXTRACTING AN ARTIFICIAL
INTERVERTEBRAL DISC FROM AN
INTERVERTEBRAL SPACE

Examiner: Not Yet
Assigned

NOTIFICATION OF LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Assignee, SpineCore, Inc., hereby notifies the Patent and Trademark Office that it is not entitled to status as a small entity, and that the claim for small entity status filed by the Applicant is hereby withdrawn.

Dated: October 8, 2004

Respectfully submitted,

By *Michael J. Doherty*

Michael J. Doherty

Registration No.: 40,592
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant